

Before the.
UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Woodgate Post Office
Woodgate, New York

Docket No. A2011-70

REPLY BRIEF OF THE PUBLIC REPRESENTATIVE

(November 22, 2011)

I. INTRODUCTION AND BACKGROUND

On September 13, 2011, the Commission docketed the petition for review of the closing of the Woodgate post office.¹ On September 15, 2011, the Commission issued an order instituting the current review proceedings, appointing a Public Representative, and establishing a procedural schedule.² Thereafter, on September 28, 2011, the Postal Service filed an electronic version of the Administrative Record (AR) concerning its Final Determination, Postal Service Docket Number 1388180-13494.³

The Petitioners filed a brief and statement in support of their petition on October 17, 2011.⁴ The Postal Service filed comments supporting its closure determination on November 7, 2011, in lieu of a legal brief.⁵

¹ Petition for Review of Closure and Application for Suspension of Determination, September 13, 2011. (Petition) The Petition for Review was received from the Woodgate Citizens Committee and signed by John B. Isley, William Karn, and Walter Paprock, September 13, 2011 (herein referred to as Petitioners).

² Notice and Order Accepting Appeal and Establishing Procedural Schedule, September 15, 2011. (Order No. 854).

³ Final Determination to Close the Woodgate, NY Post Office and Extend Service by Rural Route Service, August 22, 2011.

⁴ Petitioners Brief and Statement in Support of Their Petition for Appeal and Suspension, October 17, 2011 (Petitioners Brief).

II. STATEMENT OF FACTS

The Woodgate post office is described by the Postal Service in its Final Determination as an EAS-11 level post office in Woodgate, Oneida County, New York. FD at 2.⁶ The Woodgate post office provides service to 126 post office box customers or general delivery customers and 96 delivery customers. Retail window transactions averaged 21 for 25 minutes per day during the March 5, 2011 through March 18, 2011 test period. *Id.* Revenue in FY 2008 was \$52,371, in FY 2009 it was \$45,198, and in FY 2010 it was \$35,957.

On February 25, 2011, the Manager, Post Office Operations, requested permission to investigate the possible closure of the Woodgate Post Office. AR, Item No. 1. The request was approved. *Id.*

On May 3, 2011, the Postal Service notified customers of the Woodgate post office of a "possible change in the way your postal service is provided." AR Item No. 21. As described in the notice, customers were given the option of receiving rural route delivery service from the Forestport post office, and EAS-level 15 office, located 7.0 miles away.⁷ *Id.* Included was a questionnaire to be completed and returned by May 12, 2011. AR, Item No. 20. In addition, customers were invited to attend a public meeting on May 12, 2011, at which Postal Service representatives would be available to answer questions and provide information about postal service.

Questionnaires were distributed by the Postal Service to 127 delivery customers. They were also available over the counter, and 102 questionnaires were completed and returned: 4 responded favorably to the proposal; 59 expressed opposition or concern;

⁵ United States Postal Service Comments Regarding Appeal, November 7, 2011 (Postal Service Comments).

⁶ The Final Determination is Item No. 47 in the administrative record and is cited as FD, herein.

⁷ Mapquest estimates the driving distance between the Woodgate and the Forestport post offices to be approximately 7.3 miles (8 minutes driving time).

and 39 expressed no opinion. FD at 2; Item No. 23 at 1. The community meeting was held as scheduled on May 12, 2011, with 94 customers in attendance. AR, Item No. 24.

On May 24, 2011, a formal proposal to close the Woodgate post office was forwarded for posting for a period of sixty days, commencing May 25, 2011. AR, Item No. 31. The Proposal was posted at the Woodgate and Forestport post offices on May 25, 2011 and removed July 26, 2011. AR, Item No. 36 at 2, 4. An invitation to file comments was also posted at those offices. AR, Item No. 36 at 3, 5.

On June 24, 2011, a petition with 693 signatures of citizens served by the Woodgate post office requesting the Postal Service not to close the Woodgate post office was received by the Postal Service. AR, Item No. 27 at 1, 3-49. The Postal Service acknowledged the petition. AR Item No. 27 at 2. In addition, 137 comments were received during the posting period that ended July 26, 2011. Of those comments, 125 were unfavorable, 1 was favorable and 11 expressed no opinion. AR, Item No. 40. The official record and the proposal to close the Woodgate office were transmitted to the Vice President for Delivery and Post Office Operations on July 29, 2011. Item No. 45.

On June 29 and August 23, the Postal Service's Government Relations Office responded to letter inquiries of United States Senator Charles Schumer of New York that were initiated by his constituents. AR, Item No. 28 at 4, 9.

On August 22, 2011, the Final Determination to close the Woodgate post office was approved. FD at 19. The decision was based upon consideration of the requirements under 39 U.S.C. 404(d) such as the community's postal needs, the effect on the community, the effect on employees, and economic savings. FD at 2-18. The Final Determination included responses to many customer concerns expressed during the proposal period (FD at 2-12) and in the questionnaires, the community meeting, the petition and the congressional inquiry. FD at 12-16.

III. POSITIONS OF THE PARTIES

A. The Petitioners

Petitioners present several arguments in opposition to the closing of the Woodgate post office. Petitioners claim that closing the Woodgate post office will cause substantial harm to the users and community of Woodgate as well as financial loss to the Postal Service by failing to estimate mileage costs of the expanded delivery route service and by not projecting the loss of post office box revenue. Petition at para. 4. Petitioners also assert the Postal Service did not make an independent inquiry into the non postal effects of closing, and that failure to appoint a postmaster indicates bad faith. *Id.* at paras.6-8. The refusal to provide financial documents prevented Petitioners from determining alternative accommodations. *Id.* at para. 9. In relying upon a workload survey of transactions in February when transactions in June were up over last year, the Postal Service was arbitrary and capricious. *Id.* at para. 10.⁸ In addition, Petitioners Brief says the postmaster's salary cannot be considered and the OIC will be transferred so that employee savings cannot be considered in the economic analysis. Petitioners Brief at 2. Also, the lack, at times, of basic internet and cellular service increases the community's dependence on postal services. Closing the Woodgate post office will deprive the community of the same fundamental level of service to rural areas as in metropolitan areas. *Id.* at 4.

B. The Postal Service

On November 7, 2011, the Postal Service filed comments in lieu of the answering brief permitted by Order No. 854. In that filing, the Postal Service supports its decision to close the Woodgate post office on the basis that it complied with the requirements of 39 U.S.C. 404(d)(2)(A).

⁸ The Workload Survey is dated February 28, 2011. The record indicates the transaction studies—Window Transactions Survey, Survey of Incoming Mail, and Survey of Dispatched Mail--occurred March 5-18, 2011. AR, Item Nos. 10-12.

The Postal Service asserts that the claim the Postal Service failed to make an independent inquiry is not supported. The Postal Service points out that the record is extensive with hundreds of consumer comments. Answers to comments are standardized in that the comments have been posed in other discontinuance dockets. Postal Service Comments at 4 n. 10.

The Postal Service claims regular and effective postal service will be provided to customers. Replacement service will be provided by rural delivery route carriers who are able to handle most transactions and thereby alleviate customer fuel costs for travelling to another post office. On balance, there are disadvantages, but discontinuance is warranted. *Id.* at 7. The Postal Service states that the Forestport post office personnel can provide special attention and assistance to maintain regular and effective service. *Id.* at 7-8.

The Postal Service also asserts that the effect on the community was considered. There is no showing of discrimination against this small community as there is no record that the town of Woodgate lacks basic internet and cellular services. Post Office usage has diminished in the last three years indicating there are alternatives to postal services in the area. It says the concern about a negative impact on businesses is not demonstrated because the customer comments indicate customers will continue to support local businesses if the Woodgate post office is closed. Comments at 9, FD at 19, concern 6, Item No. 22. Also, the town's identity will be maintained by continuing to use the Woodgate name and ZIP Code. FD at 17. Demographic data estimates very nominal growth. Item No. 16, Community Survey at 2.

As to the economic savings analysis, the Postal Service states the Petitioners had access to financial data after the Proposal to close was posted. *Id.* at 11. It supports the use of a postmaster salary as a position that ultimately would be filled by a career employee if the Woodgate post office remained open. *Id.* at 12. Finally, the Postal Service responds that it has not closed the office solely for operating at a deficit but for a variety of factors listed in its Comments. *Id.* at 12-13.

IV. STANDARD OF REVIEW AND APPLICABLE LAW

A. Standard of Review

The Commission's authority to review post office closings provided by 39 U.S.C. § 404(d)(5). That section requires that the Postal Service's determination be reviewed on the basis of the record that was before the Postal Service. The Commission is empowered by section 404(d)(5) to set aside any determination, findings, and conclusions that it finds are: (A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (B) without observance of procedure required by law; or (C) unsupported by substantial evidence in the record. Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does not, however, authorize the Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.⁹

B. The Law Governing Postal Service Determinations

Prior to making a final determination to close or consolidate a post office, the Postal Service is required by 39 U.S.C. § 404 to consider: (i) the effect of the closing on the community served; (ii) the effect on the employees of the Postal Service employed at the office; (iii) whether the closing is consistent with the Postal Service's provision of "a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining;" (iv) the economic savings to the Postal Service due to the closing; and (v) such other factors as the Postal Service determines are necessary. See 39 U.S.C. § 404(d)(2)(A)

In addition, the Postal Service's final determination must be in writing, address the aforementioned considerations, and be made available to persons served by the

⁹ Section 404(d)(5) also authorizes the Commission to suspend the effectiveness of a Postal Service determination pending disposition of the appeal. The petitioner in this proceeding requested suspension of the closure of the Woodgate post office. Petition, paragraphs 3, 11 and B.

post office. 39 U.S.C. § 404(d)(3). Finally, the Postal Service is prohibited from taking any action to close a post office until 60 days after its final determination is made available. 39 U.S.C. § 404(d)(4).

V. ADEQUACY OF THE POSTAL SERVICE'S FINAL DETERMINATION

After careful review of the Postal Service's Final Determination, the materials in the Administrative Record, the arguments presented by Petitioners and the Petition submitted by customers of the Woodgate Post Office, and the Postal Service Comments, the Public Representative concludes that, on the basis of the Administrative Record, the Postal Service has generally followed applicable procedures, that the decision to close the Woodgate post office is not arbitrary or capricious, and that the Postal Service's decision is supported by substantial evidence.

The Postal Service has included \$14,987 in the economic analysis for the cost of replacement delivery service. The additional mileage costs for customers to travel to the Forestport post office 7.0 miles away has not been included in the economic savings calculation of the Final Determination. It is not a cost incurred by the Postal Service and not pertinent to the study of economic savings afforded the Postal Service. Additional customer transportation costs could be relevant as a factor when considering the effect upon customers. However, the mileage (7.0 miles) is not high, particularly for a rural area, carriers can provide most services when necessary to reduce customer mileage costs, and reasonable customer mileage costs have not traditionally been considered in measuring the effect on customers. The Postal Service is also considering the option of opening a Village Post Office to keep Post Office boxes in a centralized location that would reduce mileage costs. FD at 3, concern # 7; FD at 4, concern # 11; FD at 5-6, concern # 21. The lack of an analysis of customer mileage costs in this case is not critical to the Final Determination.

The loss of Post Office Box revenue should be considered in the economic savings analysis. In this case, the loss in Post Office Box revenue from 126 boxes could be significant. In the absence of record evidence, the estimates below indicate

that the loss of Post Office Box revenue is not likely to impact the conclusion that closing the Woodgate post office will generate overall savings. At the lowest Post Office Box rate, the annual loss of revenue from 126 boxes would be only \$3,528 (\$14.00/ 6 months x 2 x 126). Of course, without an indication from the Postal Service of the current amount of annual Post Office Box revenue at Woodgate, the revenue foregone is impossible to estimate accurately and a final number would not be available until Woodgate Post Office Box customers have notified the Postal Service whether they will rent a Post Office Box elsewhere.

It does not appear that a guesstimate of lost Post Office Box revenue would be large enough to negate the total savings estimate in the Final Determination of \$42,492. However, in the savings analysis, the Postmaster's salary and benefits total \$44,279. If the salary and benefits are removed because they are not demonstrated,¹⁰ that would more than offset the Total Annual Savings estimate of \$42,492 for a negative savings (loss) of \$1,787, even without considering the foregone Post Office Box revenue.

If a more realistic salary of an office-in charge is used of, for instance, \$21,787 (to simplify the estimate), the savings would be \$20,000. Adding back Post Office Box revenue foregone that might be about \$12,600, is not likely to reduce that \$20,000 savings to break even.¹¹ Thus, a Total Annual Savings remains likely, even if (1) an adjustment is made to use an actual salary currently paid to an officer in charge rather than a postmaster's salary and (2) if an estimate in the absence of record evidence of foregone Post Office Box revenue is considered. With these modifications, the revised Total Annual Savings would nevertheless be \$7,400.

¹⁰ See Docket No. A2011-19, Lafayette Station, Freehold, New Jersey, Order No.812, October 20, 2011 at 12-13. The Commission eliminated the salary and benefits of a postmaster when not demonstrated to be the appropriate savings estimate, "Savings attributable to costs not shown to be avoided should not be included in the savings estimates." See also Docket No. A2011-18, Valley Falls Station, Cumberland, Rhode Island 02864, September 20, 2011 at 12-13.

¹¹ For instance, although the fee group applicable to Woodgate is unstated in this record, even if the applicable Post Office Box rate is Fee Group 7, Box size 4, so that the average annual Post Office Box revenue is \$100, the revenue lost would be \$12,600, much less than potential savings of \$20,000. See proposed Post Office Box Service prices, Docket No. R2012-3, United States Postal Service Notice of Market-Dominant Price Adjustment, October 18, 2011, Attachment A at 121.

The above analysis is set forth in the following example:

Est. OIC salary and benefits	\$21,787
Annual Lease Costs	<u>13,200</u>
Total Annual costs	34,987
Less Annual cost of Replacement Service	<u>14,987</u>
Savings before foregone PO Box fees	20,000
Less Est. P.O.Box Fees Foregone	<u>12,600</u>
Est. Magnitude of Likely Savings	\$ 7,400

The cost estimate for the replacement service does not include any mileage in the study. AR, Item No. 17 at 2. This may be an omission or it may be that the existing delivery route service to 96 delivery customers from the Woodgate post office will service the additional delivery customers along the current delivery route and not incur significant additional mileage. AR, Item No. 13; FD at 2. The record is silent on this question. However, additional mileage costs are not likely to significantly affect the conclusion that there will be an overall cost savings by closing the Woodgate post office.

The above analysis by the Public Representative can only be based on general estimates, but suggests that remand for a clarifying economic analysis is not likely to yield a significantly different conclusion from that of probable economic savings. However, this estimate is entirely speculative and only provides a guidepost to review the Postal Service's Final Determination. Another factor for the Commission's consideration is the Postal Service's claim that it is considering introducing a Village Post Office offering retail service that "would afford the community a chance to keep their PO Boxes in a centralized location within the community...." FD at 4 concern # 11. Because no decision on a Village Post Office has been reached by the Postal Service, it must not be assumed that option will ameliorate the effect on the community in this case.

In the administrative Record, the Postal Service has responded to many if not all of the customer comments. The Final Determination includes responses to 40 comments. FD at 1-8. The record also includes other responses to 36 comments. AR, Item No. 23 at 2-6. A petition with 693 signatures overwhelmingly in favor of the Woodgate post office was duly noted. The Postal Service has considered the effects of closing upon its customers and has complied with the other requirements of 39 U.S.C. 404(d). Without actual financial data about the Post Office Box revenues that will be lost and the actual costs of an officer in charge, if that is appropriate, the savings cannot be measured precisely, but the Postal Service's conclusion does not appear to be arbitrary and capricious and is supported by substantial evidence.

VI. CONCLUSION

For the reasons set forth above, the decision of the Postal Service to close the Woodgate post office should be affirmed.

Respectfully Submitted,

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